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PUBLIC ENTITY, FILING FEES WAIVED PURSUANT TO GOV'T CODE §6103

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JULIA DETWEILER,

Plaintiff,

vs.

CITY OF MT. SHASTA,

Defendants.

) Case No.: 2-24-CV-03100-SCR

)

) **DEFENDANTS CITY OF MT. SHASTA**
) **AND OFFICER JEREMIAH CAPURRO'S**
) **ANSWER TO COMPLAINT**

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Defendants CITY OF MT. SHASTA and JEREMIAH CAPURRO submit the following answer to Plaintiff's Complaint (ECF No. 1). Defendants generally deny all allegations except those specifically admitted. Each paragraph number in this answer corresponds to the paragraph number in the Complaint.

1. Admit that jurisdiction and venue are proper.
2. Admit that jurisdiction and venue are proper.
3. The introduction requires no response. Deny any unlawful conduct.
4. The introduction requires no response. Deny any unlawful conduct.
5. Defendants are without sufficient knowledge or information to admit or deny and

1 on that basis deny.

2 6. Defendants are without sufficient knowledge or information to admit or deny and
3 on that basis deny.

4 7. To the extent that this allegation contains legal conclusions, no response is required
5 or provided. Otherwise, admit that the City is a public entity, that the Mt. Shasta Police
6 Department is a division of the entity, and that the City was the employer of Officer Capurro at
7 the time of the incident.

8 8. To the extent that this allegation contains legal conclusions, no response is required
9 or provided. Otherwise, admit that Officer Capurro was acting in the course and scope of
10 employment and under color of law at the time of the incident.

11 9. Defendants are without sufficient knowledge or information to admit or deny and
12 on that basis deny.

13 10. Defendants are without sufficient knowledge or information to admit or deny and
14 on that basis deny.

15 11. Defendants are without sufficient knowledge or information to admit or deny and
16 on that basis deny.

17 12. Deny.

18 13. Defendants are without sufficient knowledge or information to admit or deny and
19 on that basis deny.

20 14. Defendants are without sufficient knowledge or information to admit or deny and
21 on that basis deny.

22 15. Defendants are without sufficient knowledge or information to admit or deny and
23 on that basis deny.

24 16. To the extent that this allegation contains legal conclusions, no response is required
25 or provided.

26 17. To the extent that this allegation contains legal conclusions, no response is required
27 or provided. Otherwise, admit that Officer Capurro was acting in the course and scope of
28 employment at the time of the incident.

1 18. Defendants incorporate all prior corresponding responses hereto.

2 19. Defendants are without sufficient knowledge or information to admit or deny and
3 on that basis deny.

4 20. Admit.

5 21. Admit that Officer Capurro contacted Mr. Detweiler who was seated. Defendants
6 are without sufficient knowledge or information to admit or deny whether Mr. Detweiler was
7 sleeping when he was contacted.

8 22. Admit that Officer Capurro shined a flashlight on Mr. Detweiler, announced that
9 he was a police officer, told Mr. Detweiler to keep his hands up, turn around, and not touch
10 anything. Mr. Detweiler refused to obey these lawful orders. Admit that Officer Capurro attempted
11 to prevent Mr. Detweiler from possessing a bag while Officer Capurro attempted to investigate the
12 reported crime. Deny any remaining allegations.

13 23. Admit that Officer Capurro discharged his taser. Defendants are without sufficient
14 knowledge or information to admit or deny whether the taser struck Mr. Detweiler. Deny that it
15 was without justification. Deny any remaining allegations.

16 24. Admit that Mr. Garrett grabbed Mr. Detweiler from behind and that Officer
17 Capurro discharged his taser again. Deny any remaining allegations.

18 25. Admit that Officer Capurro attempted to strike Mr. Detweiler with his police baton.
19 Deny the remaining allegations.

20 26. Deny that Mr. Detweiler was restrained. Defendants are without sufficient
21 knowledge or information to admit or deny the remaining allegations.

22 27. Deny that Mr. Detweiler was restrained. Admit that Mr. Detweiler put brass
23 knuckles on his right hand and attempted to strike Mr. Garrett. Admit that Officer Capurro
24 discharged his firearm, striking Mr. Detweiler.

25 28. Deny.

26 29. Deny.

27 30. Deny.

28 31. Deny.

1 32. Deny.

2 33. Deny.

3 34. Defendants are without sufficient knowledge or information to admit or deny and
4 on that basis deny.

5 35. Deny.

6 36. Admit that Mr. Detweiler was not armed with a firearm. Deny that he did not
7 possess any other deadly weapon.

8 37. Deny.

9 38. Admit.

10 39. Defendants are without sufficient knowledge or information to admit or deny and
11 on that basis deny.

12 40. To the extent that this allegation contains legal conclusions, no response is required
13 or provided. Admit that claims were submitted on June 4, 2024 and were denied by operation of
14 law.

15 41. Defendants incorporate all prior corresponding responses hereto.

16 42. Deny.

17 43. Deny.

18 44. Deny.

19 45. Deny.

20 46. Deny.

21 47. Deny.

22 48. Deny.

23 49. Admit that Plaintiff brings claims and seeks damages. Deny unlawful conduct by
24 Defendants.

25 50. Admit that Plaintiff seeks attorney's fees.

26 51. Defendants incorporate all prior corresponding responses hereto.

27 52. Admit that Officer Capurro attempted to seize Mr. Detweiler, eventually utilized
28 his taser, baton and firearm, and handcuffed Mr. Detweiler. Deny the remaining allegations.

- 1 53. Deny.
- 2 54. Deny.
- 3 55. Deny.
- 4 56. Admit.
- 5 57. Deny.
- 6 58. Deny.
- 7 59. Deny.
- 8 60. Admit that Plaintiff brings claims and seeks damages. Deny unlawful conduct by
- 9 Defendants.
- 10 61. Admit that Plaintiff seeks attorney's fees.
- 11 62. Defendants incorporate all prior corresponding responses hereto.
- 12 63. Deny.
- 13 64. Deny.
- 14 65. Deny.
- 15 66. Deny.
- 16 67. Deny.
- 17 68. Deny.
- 18 69. Admit that Plaintiff brings claims and seeks damages. Deny unlawful conduct by
- 19 Defendants.
- 20 70. Admit that Plaintiff seeks attorney's fees.
- 21 71. Defendants incorporate all prior corresponding responses hereto.
- 22 72. This is a legal conclusion that requires no response.
- 23 73. Deny.
- 24 74. Deny.
- 25 75. Deny.
- 26 76. Deny.
- 27 77. Deny.
- 28 78. Admit that Plaintiff brings claims and seeks damages. Deny unlawful conduct by

1 Defendants.

2 79. Admit that Plaintiff seeks attorney's fees.

3 80. Defendants incorporate all prior corresponding responses hereto.

4 81. To the extent this is a legal conclusion, no response is required. Otherwise,
5 Defendants are without sufficient knowledge or information to admit or deny.

6 82. This is a legal conclusion for which no response is required.

7 83. This is a legal conclusion for which no response is required.

8 84. This is a legal conclusion for which no response is required.

9 85. Deny.

10 86. Deny.

11 87. Defendants are without sufficient knowledge or information to admit or deny.

12 88. Admit that Plaintiff brings claims and seeks damages. Deny unlawful conduct by
13 Defendants.

14 89. Admit that Plaintiff seeks attorney's fees.

15 90. Defendants incorporate all prior corresponding responses hereto.

16 91. Admit that Officer Capurro used deadly force. Deny the remaining allegations.

17 92. This is a legal conclusion for which no response is required. Otherwise, admit that
18 Officer Capurro was acting in the course and scope of employment.

19 93. Deny that Mr. Detweiler was physically restrained. Defendants are without
20 sufficient knowledge or information to admit or deny any remaining allegations.

21 94. This is a legal conclusion for which no response is required.

22 95. Deny.

23 96. Deny.

24 97. Admit that Plaintiff brings claims and seeks damages. Deny unlawful conduct by
25 Defendants.

26 98. Defendants incorporate all prior corresponding responses hereto.

27 99. Deny.

28 100. Deny.

1 101. This is a legal conclusion for which no response is required. Otherwise, admit that
2 Officer Capurro was acting in the course and scope of employment.

3 102. This is a legal conclusion for which no response is required.

4 103. Admit that Plaintiff brings claims and seeks damages. Deny unlawful conduct by
5 Defendants.

6 104. Defendants incorporate all prior corresponding responses hereto.

7 105. This is a legal conclusion for which no response is required.

8 106. This is a legal conclusion for which no response is required.

9 107. This is a legal conclusion for which no response is required.

10 108. Deny.

11 109. Deny.

12 110. Deny.

13 111. Deny.

14 112. Deny.

15 113. Defendants are without sufficient knowledge or information to admit or deny.

16 114. Deny.

17 115. This is a legal conclusion for which no response is required. Otherwise, admit that
18 Officer Capurro was acting in the course and scope of employment.

19 116. Deny.

20 117. Admit that Plaintiff brings claims and seeks damages. Deny unlawful conduct by
21 Defendants.

22 118. Admit that Plaintiff seeks attorney's fees.

23 **AFFIRMATIVE DEFENSES**

24 Defendants allege the following separate and distinct affirmative defenses:

25 1. Officer Capurro is entitled to qualified immunity as to the federal claims because
26 there was no clearly established law at the time of this incident that prohibited Officer Capurro's
27 use of force in response to Mr. Detweiler refusing to obey lawful commands and assaulting an
28 officer and then Mr. Garrett with illegal brass knuckles.

2. Pursuant to provisions of the California Government Code §§ 815.2(b) and 820.2, Defendants are entitled to discretionary immunity as to the state-law claims alleging that Officer Capurro's decision to use a taser, baton and firearm were unlawful.

3. Pursuant to provisions of the California Government Code §§ 815.2(b) and 820.8, Defendants are entitled to immunity as to the state-law claims to the extent Mr. Detweiler was injured by the act or omission of other persons.

4. There is no state-law liability pursuant to Penal Code §§ 835 and 835a because Officer Capurro was attempting to make a lawful arrest and used reasonable force when Mr. Detweiler refused to comply with lawful commands and assaulted an officer and Mr. Garrett with brass knuckles.

5. Officer Capurro acted in self-defense and defense of others.

6. Plaintiffs did not comply with the California Government Claims Act prior to filing suit.

7. Mr. Detweiler assumed the risk of any injury and/or damages caused by his own conduct.

8. Mr. Detweiler and/or other third parties were contributorily negligent.

9. Plaintiff failed to mitigate damages.

10. Plaintiff failed to join all indispensable parties.

11. Plaintiff's claims for punitive or exemplary damages violate Defendants' right to procedural due process, substantive due process, and protection from "excessive" fines as guaranteed by the Fifth, Fourteenth, and Eighth Amendments to the United States Constitution, respectively, and the Constitution of the State of California.

PRAYER

Wherefore, Defendant requests the following relief:

1. That Plaintiff's Complaint be dismissed in its entirety without leave to amend and that Plaintiff take nothing by way of Complaint;

2. That Defendants be henceforth dismissed from this matter with prejudice;

3. That judgment be entered in favor of Defendants and against Plaintiff;

1 4. That Defendants be awarded attorney's fees and costs of suit incurred under and by
2 virtue of the laws stated above; and

3 5. For such other and further relief as the Court deems just and proper.
4
5

6 Dated: January 6, 2025

ANGELO, KILDAY & KILDUFF, LLP

7 /s/ Derick E. Konz

8 By: _____
9 DERICK KONZ
10 WILLIAM J. BITTNER
11 Attorneys for Defendants CITY OF MT.
12 SHASTA and JEREMIAH CAPURRO
13

14 **DEMAND FOR JURY TRIAL**

15 Defendants respectfully demands that all issues of fact be tried herein by and before a jury.

16 Dated: January 6, 2025

ANGELO, KILDAY & KILDUFF, LLP

17 /s/ Derick E. Konz

18 By: _____
19 DERICK KONZ
20 WILLIAM J. BITTNER
21 Attorneys for Defendants CITY OF MT.
22 SHASTA and JEREMIAH CAPURRO
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